

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

SAN ANTONIO BAY ESTUARINE
WATERKEEPER, *et al*,

Plaintiffs,

VS.

FORMOSA PLASTICS CORP, TEXAS, *et al.*,

Defendants.

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CIVIL ACTION NO. 6:17-CV-00047

ORDER APPOINTING GEAR AS MONITOR

Plaintiffs ask the Court to appoint Global Environmental Assessments and Response (GEAR) of Corpus Christi, Texas, as Monitor in this case pursuant to the Consent Decree (Dkt. No. 230). Among other things, the Monitor’s role is to regularly observe Formosa’s Cox Creek outfalls to document if Plastics are present. The Consent Decree allows the Court to select a Monitor when the parties cannot agree on one. Consent Decree, Docket No. 197, ¶ 28. In response to Plaintiffs’ motion to appoint GEAR, Docket No. 201, Defendants did not object to the selection of GEAR, Docket No. 203. Despite resolution of the dispute regarding the Monitor’s role, GEAR has not been retained as the Monitor.

The Consent Decree requires the appointment of a Monitor to document Plastics and thereby determine when fines must be paid pursuant to paragraph 36 and when reporting is required pursuant to paragraph 37, as well as assist by providing relevant information to the Remediation Consultant for cleanup pursuant to paragraph 34. Among many responsibilities, the Monitor must “report the presence of Plastics to the Remediation Consultant.” *Id.* at ¶ 34. The Monitor is required to “document the presence of Plastics outside of Formosa’s outfalls and at the locations in paragraph 32 [of the decree] through a log and photographs,” which are sent each

week to Plaintiffs, Formosa and the Remediation Consultant and which can be shared publicly. *Id.* at ¶ 35. Formosa agreed in the hearing regarding the Monitor's role reporting plastics to the Remediation Consultant, Aug. 3, 2020 Hearing Tr. 30:17-22; and 21:18-20, and indicated no objection to the appointment of GEAR. June 11, 2020 Hearing Tr. 7:16-20.

The Court hereby appoints Global Environmental Assessments and Response (GEAR) of Corpus Christi, Texas, as Monitor, and orders that within 10 days Defendants retain GEAR through a scope of work agreed to by Plaintiffs, and the scope of work be consistent with the Court's August 17, 2020 Order, Docket No. 219, or any substitution entered for that order. The deadline for final agreement to the scope of work can be extended if agreed to by all parties.

It is so ORDERED.

SIGNED on this 14th day of December, 2020.

A handwritten signature in black ink, appearing to read "Kenneth M. Hoyt", written over a horizontal line.

Kenneth M. Hoyt
United States District Judge